

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HENRY HERNANDEZ,

Plaintiff,

Case No. 2:04-cv-214

v.

Hon. Richard Alan Enslen

UNKNOWN VANSLOTEN, et al.,

Defendants.

_____/

ORDER AND JUDGMENT
APPROVING REPORT AND RECOMMENDATION

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C).

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge, filed August 9, 2005, is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (Dkt. No. 20) is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff's complaint is **DISMISSED**¹ for the reasons stated in the Report and Recommendation.

Dated in Kalamazoo, MI:
September 9, 2005

/s/Richard Alan Enslen
Richard Alan Enslen
Senior United States District Judge

¹Papers from the Clerk of the Court were mailed to plaintiff at last known address of record, have been returned by the U.S. Postal Service as undeliverable because he is no longer at that address and no forwarding order is on file. Plaintiff has failed to advise the Court of his current address, and the Court is unable to give notice of further proceedings. In accordance with W.D. Mich. LcivR 41, Plaintiff's complaint would have been dismissed without prejudice for want of prosecution, were lack of prosecution the only defect. Since lack of prosecution is not the only defect, the dismissal will enter with prejudice, but in the event Plaintiff timely notifies the Clerk of his current address, the Court will consider reentering the Judgment for purposes of preserving a timely appeal.